

### **REMARKS/ARGUMENTS**

Claims 59-66, 68-70, 72-74, 76, 80-82, 84, 88, 90-92, 96-106, and 108-110 remain in this application. Claims 67, 83, 89 and 107 are cancelled by way of this Amendment. Claims 59, 68, 76, 80, 84, 88, 90, 91 are currently amended.

Claims 59-66, 69-70, 72-74, 76, 80-82, 100-106 and 109-110 of record stand rejected under 35 USC § 112 first paragraph as failing to comply with the written description requirement and with the enablement requirement.

Claims 59, 61-64, 66, 69-70, 72-74, 76, 80-82, 101-104, 106 and 109-110 of record stand rejected under 35 USC § 103(a) as being unpatentable over US 5,254,801 in view of US 5,550,038.

Claims 88, 92, and 96-98 of record stand rejected under 35 USC § 103(a) as being unpatentable over US 5,426,041 in view of US 5,254,801.

The Examiner has acknowledged that claims 67-68, 83-84, 89-91 and 107-108 of record are directed to allowable subject matter, and that claim 99 of record is in allowable form.

Applicants continue to traverse the above-mentioned rejections for the reasons set forth in Applicants' Amendment of June 17, 2003. Nevertheless, solely for the purposes of advancing prosecution and without acquiescing to the rejections, Applicants have amended the claims to recite subject matter acknowledged by the Examiner to be allowable. Applicants reserve the right to prosecute further claims in one or more continuing or divisional applications claiming the benefit of the instant application.

Claims 59, 76, 80, 88 and 99 are independent claims.

The features of allowable claim 67 (i.e. that the conditionally lethal first gene is a gene encoding IAMH) has been incorporated in claim 59, such that claim 59, and the claims dependent therefrom are now in allowable form.

The feature of allowable claim 107 (i.e. that the conditionally lethal gene is a gene encoding IAMH) has been incorporated into independent claim 76, such that claim 76, and the claims depending therefrom, are in allowable form.

Independent claim 80 has been amended to incorporate the features of allowable claim 83 (i.e. that the conditionally lethal gene encodes IAMH and that the chemical agent comprises an indoleamide or a related auxin derivative that is a substrate for IAMH) such that claim 80 and the claims dependent therefrom are now in allowable form.

Independent claim 88 has been amended to incorporate the feature of allowable claim 89 (i.e. that the medium comprises an auxin transport inhibitor) such that claim 88 and the claims dependent therefrom are now in allowable form.

Claim 99 has already been allowed.

Accordingly, Applicants respectfully request that a timely Notice of Allowance be issued in this case.

Respectfully submitted,

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